

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
Implementation of Section 621(a)(1) of)	
the Cable Communications Policy Act of 1984)	MB Docket No. 05-311
as amended by the Cable Television Consumer)	
Protection and Competition Act of 1992)	

COMMENTS OF THE CITY OF WILSON, NORTH CAROLINA

These Comments are filed by the City of Wilson in support of the comments filed by the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NATOA, the City of Wilson believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

Cable Franchising in Wilson

Community

Wilson is a City with a population of approximately 47,500. Our franchised cable provider is Time Warner Entertainment.

Our Current Franchise

Our franchise requires the cable operator to pay a franchise fee to the City in the amount of 5% of the cable operator's gross revenues. We require the cable operator to provide capacity for six channels to be used for public, educational, and/or governmental ("PEG") access channels on the cable system. Our franchise also requires Time Warner to provide capacity on an institutional network ("I-Net").

The franchise provider also must install and maintain an emergency alert system pursuant to the FCC's rules and the North Carolina Emergency Alert System Plan. The franchise agreement also mandates that the City's Public Safety Communication Center have access to the system so it can communicate emergency messages and alerts to residents consistent with the North Carolina Emergency Alert System Plan.

Our franchise contains customer service obligations, by which we are able to help ensure that the cable operator is treating our residents in accordance with federal standards and the terms of the

franchise agreement. The provider must, no less than annually, provide a privacy notice in the form of a separate written statement to subscribers as required by 47 USC § 551. Vehicles must display the name of the company, and employees must display a photo identification card. The provider must also provide knowledgeable, qualified company representatives to respond to customer telephone calls Monday through Friday during normal business hours, and must promptly respond to service interruptions. Billing must be clear concise, and understandable. Customer service center and bill payment locations must be open Monday through Friday during normal business hours. If complaints cannot be resolved with the service provider, the subscriber may register a complaint with the City.

Our franchise requires the provider to serve residences within the City limits and any residences within a set extension area when there are 30 homes per cable mile that would be served by the extension, and one of the residences requests service. This provision ensures service to most all citizens regardless of race, age, income or location within a reasonable time frame.

The Grantee of our franchise must maintain insurance throughout the franchise term. This requirement includes: 1) workers compensation for all employees with a limit of \$500,000 per accident, 2) a \$2,000,000 per occurrence general liability policy, 3) a \$1,000,000 per occurrence business auto policy, and 4) an umbrella policy with minimum limits of \$5,000,000.

A utility pole attachment agreement grants the cable operator access to the public rights of way and compatible easements for the purpose of providing cable television service. Apart from the franchise, the cable provider is not required to obtain a permit from the City before it may access the public rights of way.

The franchise agreement provides that the City can inspect the books, records, maps, plans, and other documents, including financial documents, in the control or possession of the service provider: 1) to enforce the City's rights or evaluate compliance with the franchise and applicable law; 2) in the exercise of any lawful regulatory power, and 3) as may be convenient in connection with any proceeding the City conducts under applicable law in accordance with the terms of the franchise. There is also a provision for 5-year performance monitoring. The City reserved the right to declare a forfeiture of the franchise and all of the Grantee's rights under the franchise in the event of a violation of a material provision of the agreement or if the Grantee is found by a court of competent jurisdiction to have practiced any fraud or deceit against the City.

The Franchising Process

A cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved

by both parties the provisions in the franchise agreement function as contractual obligations upon both parties. Negotiations with franchised providers have never been unreasonably delayed.

Because changes in the law may affect the rights or responsibilities of either party under this franchise agreement, either party may request evaluation and review sessions at any time during the term of the franchise. The agreement requires both parties to agree to reasonable requests not inconsistent with the terms of the franchise or applicable law when the change is technically feasible, economically reasonable, and will not result in a material alteration of the rights and duties of the parties. In the event of any conflict between the terms of the franchise and the provisions of Cable Telecommunications Standards Ordinance No. 0-055-99, the terms of the franchise will prevail.

While a franchise is negotiated by the local government as a contract, the process provides the cable operator additional due process rights, and consequent additional obligations on the local government. For instance, state and local law require that any ordinance granting a franchise must pass by a majority at two separate readings.

Competitive Cable Systems

Our community was approached over ten years ago by a competitive provider, but the provider chose not to enter into any formal discussions. No other competitor has sought to provide service in the City. The City has not denied any provider the opportunity to serve in our community and the City does have mechanisms in place to offer the same or a comparable franchise to a competitor upon request. Competition is certainly needed in our market and the City stands ready to welcome all competition that might come our way.

Conclusions

The local cable franchising process functions well in the City of Wilson. As the above information indicates, we are experienced at working with cable providers to see that the needs of the local community are met and public safety is assured while the practical business needs of cable providers are still taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met, that local customers are protected and that services are provided on a nondiscriminatory basis.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. The franchise fees imposed help to offset a portion of the costs associated with this oversight and to partially compensate for the use and management of the public right of way. There is no need

to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

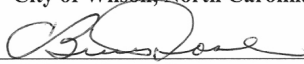
Finally, local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The City of Wilson therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

City of Wilson, North Carolina

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